

IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

IN RE:)
)
RICHARD F. BARBAROW,) BANKRUPTCY CASE NUMBER
) 19-10947
)
DEBTOR.) (CHAPTER 13 CASE)

PURSUANT TO LOCAL RULE 9007-1, THIS MOTION WILL BE TAKEN UNDER ADVISEMENT BY THE COURT AND MAY BE GRANTED UNLESS A PARTY IN INTEREST FILES A RESPONSE WITHIN 21 DAYS OF THE DATE OF SERVICE. RESPONSES MUST BE SERVED UPON THE MOVING PARTY AND, IN THE MANNER DIRECTED BY LOCAL RULE 5005-1, FILED WITH THE CLERK ELECTRONICALLY OR BY U.S. MAIL ADDRESSED AS FOLLOWS: CLERK, U.S. BANKRUPTCY COURT, ONE CHURCH STREET, MONTGOMERY, AL 36104.

**MOTION TO DETERMINE MORTGAGE FEES AND EXPENSES PURSUANT
TO 3002.1 NOTICE OF POST-PETITION FEES
FILED BY WILMINGTON SAVINGS FUND SOCIETY, FSB**

COMES NOW, the Debtor, Richard F. Barbarow, by and through his undersigned counsel, and files this Motion to Determine Mortgage Fees and Expenses in response to the Rule 3002.1 Notice of Postpetition Mortgage Fees, Expenses, and Charges filed on October 14, 2019, by Wilmington Savings Fund Society, FSB; and, as grounds for said Motion, the Debtor states as follows, to-wit:

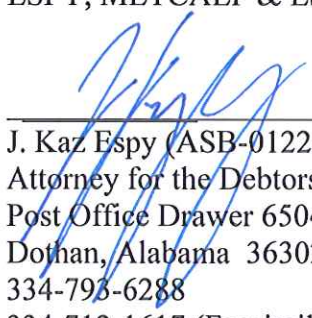
1. The Debtor filed the instant Chapter 13 petition on June 12, 2019 (the "petition date").
2. The Debtor's plan proposes to cure certain pre-petition, mortgage arrearages owed Wilmington Savings Fund Society, FSB ("WSFS") and pay all post-petition mortgage payments (beginning July, 2019) directly.
3. Upon information and belief, WSFS holds a first-priority mortgage / security interest in the Debtor's residential real property located at 212 Powhatten St., Andalusia, Covington County, Alabama. Said property serves as the Debtor's homestead; and, thus, is averred to be necessary for his effective reorganization.
4. On August 6, 2019, WSFS filed proof of claim number 6 in the total amount of \$16,914.70 and alleged pre-petition arrearage of \$3,116.02.
5. On August 14, 2019, WSFS issued a Rule 3002.1 Notice of Postpetition Mortgage Fees, Expenses and Charges ("Notice") indicating that "attorney fees" were incurred on "06/20/2019" totaling "\$150.00" and "bankruptcy/proof of claim fees" were incurred on "08/06/2019" totaling \$500.00, all of which are understood to be assessed against the Debtor's account. Hence, WSFS is assessing a total of \$650.00 in post-petition fees to the Debtor's account as a result of his Chapter 13 bankruptcy filing.
6. The undersigned has reviewed the attachments to WSFS' Notice but maintains WSFS is charging the Debtor \$650.00 to basically prepare/file a proof of claim and review the

Debtor's plan. Such a hefty fee is unreasonable for this work, especially considering the Debtor's plan is a standard case wherein he is curing pre-petition arrearages and proposing to pay post-petition installments directly.

7. While the Debtor concedes that the terms of the original promissory note and/or mortgage might cause him to be responsible for WSFS' "costs of collection", such costs of collection must be reasonable; and, to that end, alleging the Debtor owes \$650.00 in this instance is averred to be unreasonable and excessive.
8. The foregoing considered, the Debtor suggests a reasonable fee/expense for WSFS should be \$325.00, which is averred to be a reasonable sum commensurate with the work/expense required by WSFS in response to his Chapter 13 bankruptcy filing

WHEREFORE, premises considered, the Debtor prays that this Honorable Court will reduce Wilmington Savings Fund Society, FSB's 3002.1 post-petition fees, expenses and/or charges to \$325.00; and, for all other relief that is just.


ESPY, METCALF & ESPY, P.C.



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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have this date served a copy of the foregoing objection upon Mrs. Sabrina McKinney, Trustee, Post Office Box 173, Montgomery, AL 36101; Carrington Mortgage Services, LLC, 1600 South Douglass Road, Anaheim, CA 92806; and, Taylor Bartle, WEINSTEIN & RILEY, P.S., 2001 Western Ave., Ste. 400, Seattle, WA 98121 (bncmail@w-legal.com), either electronically or by placing a copy of same in the U.S. Mail, postage prepaid and properly addressed this the 15th day of October, 2019.



J. Kaz Espy